

Application No. 10/617,161

**REMARKS**

The Applicant and the undersigned thank Examiner Douglas for his careful review of this application. The Applicant wishes to thank Examiner Douglas for his indication of allowable subject matter in Claims 44-54 and in dependent Claims 5, 6, 8-12, 14, 19, 22, 37-43, 60, 63, 84, 88, and 98.

Applicant has amended Claims 1, 5, 8, 11-17, 55, 60, 61, 69, 70, 72, 74, 78, 84-87, 99, and 100. Applicant has canceled Claims 30-33, 62, 67, 68, 81, 88, 96, and 97. Applicant has added Claims 101-109. The new claims find clear support in the specification and do not contain new matter. Upon entry of the amendments, Claims 1-29, 34-61, 63-66, 69-80, 82-87, 89-95, and 98-109 are pending in the subject application. The independent claims for this application are Claims 1, 17, 44, 55, 72, and 87.

**I. Claim Rejections under 35 U.S.C. § 112**

The Office Action rejected Claim 8 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to provide clear and proper antecedent basis for the terms "tank car" and "tank." The Applicant has amended Claim 8 to provide proper antecedent basis.

**II. Claim Rejections under 35 U.S.C. § 102(b)**

The Examiner rejected Claims 1-3, 15-18, 20, 21, 23-28, 36, 55-59, 61, 62, 64-66, 72-79, 85-87, 89-91, 96, 97, 99, and 100 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,186,054 to Shelton, Jr. ("*Shelton*"). The Applicant respectfully offers the following remarks to traverse these pending rejections.

**A. *Shelton* Does Not Anticipate Claim 1**

It is respectfully submitted that *Shelton* does not anticipate the invention of Claim 1 because it fails to disclose an apparatus having all of the elements recited in Claim 1. *Shelton* discloses an oil recovery unit with a hydraulic oil tank, but the unit does not have an access platform comprising a stairway extending from the mounting platform and a landing platform extending from the stairway as set out in Claim 1.

The Office Action states that *Shelton* discloses an access platform because the term "can be broadly met by any raised surface as, for example, the top of storage tank 80 or the raised portion of the hitch section 130." Office Action, at 2. However, *Shelton* does not disclose an

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access platform comprising a stairway extending from the mounting platform and a landing platform extending from the stairway, as recited in Claim 1. Accordingly, *Shelton* does not anticipate Claim 1 and the rejection of Claim 1 over *Shelton* should be reversed.

**B. Shelton Does Not Anticipate Claim 17**

It is respectfully submitted that *Shelton* does not anticipate the invention of Claim 17 because it fails to disclose a method having all of the steps recited in Claim 17. *Shelton* discloses a method for retrieving oil from a stationary well through the use of a compressor driving a pneumatic pump to pump out the oil from the well. *Shelton* does not disclose a method for unloading material from a first storage medium wherein the first storage medium is mobile and wherein material transfer is accomplished via pressure differential at the storage media.

**1. *Shelton* Does Not Disclose the Step of Providing a Location Accessible by a Storage Medium Wherein the Medium to be Unloaded is Mobile**

*Shelton* does not disclose the step of providing a first and a second location accessible by a first storage medium, wherein the first storage medium is mobile and can be maneuvered while comprising the material. The mobile material transfer unit is maneuvered to the first location. Once there, the material is transferred from the first storage medium to a second storage medium. The first storage medium, which originally comprises the material is mobile and can be maneuvered when it comprises the material, unlike the invention disclosed in *Shelton*.

The Office Action states that *Shelton* discloses an inherent method for using a mobile unit to transfer material. Office Action at 2. *Shelton* teaches a system for the recovery of oil. *Shelton*, col. 1:4-9. The oil recovery unit is transferred to a stationary oil well and connected to the Christmas Tree of the oil well. *Shelton*, at col. 1:25-28. Material, in this case oil, is then transferred from the well, through the Christmas tree to the storage tank. *Shelton*, at col. 3:36-38. Thus, the oil well and Christmas tree are the first storage medium in *Shelton*. However, unlike the invention of Claim 17, neither the Christmas tree nor the well are mobile and can be maneuvered while comprising the material.

**2. *Shelton* Does Not Disclose the Step of Completing a Transfer Operation By Creating a Pressure Differential at the Storage Media**

*Shelton* does not disclose the step of completing a first transfer operation comprising a compressor creating a pressure differential at the first storage medium and at a second storage medium, as set out in Claim 17. The mobile material transfer unit of Claim 17 transfers a material from a first storage medium to a second storage medium. The transfer is accomplished

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by a compressor creating a pressure differential between the first storage medium and the second storage medium. More specifically, this pressure differential occurs at the first storage medium and at the second storage medium.

*Shelton*, on the other hand, discloses the use of a pneumatic pump 60, attached to the oil recovery system, to pump oil from the well. *Shelton*, at col. 3:39-44. Any pressure differential that is created by the pneumatic pump, in *Shelton*, is created at the inlet and outlet of the pump, which is located on the oil recovery unit, and not at the first and second storage medium, as set out in Claim 17. *Shelton*, at col. 3:39-44. Further, *Shelton* specifically teaches that the "oil recovery tank 20 remains at atmospheric pressure at all times." *Shelton*, at col. 3:60-61. Thus, *Shelton* teaches away from the creation of a pressure differential to transfer the material. In addition, while *Shelton* does disclose the use of an air compressor 100, the compressor does not create a pressure differential at the first and second storage media, as stated in Claim 17. Instead, *Shelton*'s air compressor is only used to drive the pneumatic pump 60. *Shelton*, at col. 3:28-35. Accordingly, *Shelton* does not anticipate Claim 17 and the rejection of Claim 17 over *Shelton* should be reversed.

C. *Shelton* Does Not Anticipate Claim 55

It is respectfully submitted that *Shelton* does not anticipate the invention of Claim 55 because it fails to disclose a method having all of the steps recited in Claim 55. *Shelton* discloses a method of removing oil from a well through the use of a Christmas tree, but the method disclosed by *Shelton* does not include the step of maneuvering a mobile storage medium into a first position, wherein the mobile storage medium comprises a first material. As set out in Section II(B)(1) above, the invention of Claim 55 states that the storage medium, from which material is transferred, is mobile and can be maneuvered into a position, unlike the invention disclosed in *Shelton*.

In *Shelton* the oil recovery unit is transferred to an oil well and connected to the Christmas Tree of the oil well. *Shelton*, at col. 1:25-28. Oil is transferred from the well, through the Christmas tree, to the storage tank. *Shelton*, at col. 3:36-38. Thus, the oil well and Christmas tree are the storage medium comprising a first material in *Shelton*. However, unlike the invention of Claim 55, neither the oil well, nor the Christmas tree attached thereto, are mobile and can be maneuvered into a first position, as set out in Claim 55. Accordingly, *Shelton* does not anticipate Claim 55 and the rejection of Claim 55 over *Shelton* should be reversed.

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D. *Shelton Does Not Anticipate Claim 72*

It is respectfully submitted that *Shelton* does not anticipate the invention of Claim 72 because it fails to disclose a method having all of the steps recited in Claim 72. *Shelton* discloses a method for retrieving oil from a well-head through the use of a compressor driving a pneumatic pump to pump the oil from the well to another tank, but the method disclosed by *Shelton* does not include the step of creating a pressure differential with a self-contained source, wherein the pressure differential is created by increasing the pressure at the first storage medium and decreasing the pressure at the second storage medium, as set out in Claim 72.

As set out above in Section II(B)(2) the mobile material transfer unit transfers a material from a first storage medium to a second storage medium. The transfer is accomplished by a self-contained source on the mobile material transfer unit creating a pressure differential between the first storage medium and the second storage medium. More specifically, the pressure differential is generated by increasing the pressure at the first storage medium and decreasing the pressure at the second storage medium.

*Shelton*, on the other hand, does not teach or suggest a method of transferring material by increasing the pressure of one storage medium and decreasing the pressure of the other. Instead, *Shelton* teaches away from the method disclosed in Claim 72. *Shelton* specifically teaches that the "oil recovery tank 20 remains at atmospheric pressure at all times." *Shelton*, at col. 3:60-61 (emphasis added). Thus, *Shelton* teaches that the pressure in the second storage medium is constant and is not lowered as required by amended Claim 72. Accordingly, *Shelton* does not anticipate Claim 72 and the rejection of Claim 72 should be reversed.

E. *Shelton Does Not Anticipate Claim 87*

It is respectfully submitted that *Shelton* does not anticipate the invention of Claim 55 because it fails to disclose a method having all of the steps recited in Claim 55. The Examiner objected to Claim 88 as being dependent upon a rejected base claim. The Examiner indicated, however, that Claim 88 would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. The Applicant has canceled Claim 88 and incorporated the allowable subject matter into independent Claim 87. The Office Action rejection of this claim has been rendered moot by this claim amendment. Accordingly, *Shelton* does not anticipate Claim 87 and the rejection of Claim 87 over *Shelton* should be reversed.

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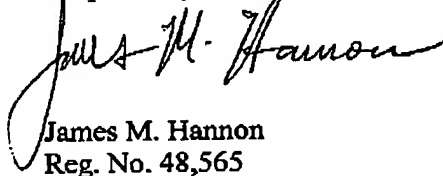
**III. Objections for Claims Depending From a Rejected Base Claim**

The Examiner has objected to Claims 5, 6, 8-12, 14, 19, 22, 37-43, 60, 63, 84, 88, and 98 as being dependent upon rejected base claims. Applicant trusts that its amendment of independent Claims 1, 17, 55, 72, and 87 to overcome *Shelton* also overcome these objections.

**CONCLUSION**

The foregoing is submitted as a full and complete response to the Official Action mailed on April 23, 2004. If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment, a telephone call to the undersigned at (404) 572-4691 to discuss same is respectfully requested.

Respectfully submitted,

  
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